

Remarks

Amendments to the Claims

Claims 1-25 were pending in this application, and subject to a Restriction Requirement. Claims 9, 14 and 21 are amended herein. Claim 24 is canceled herein, without prejudice to renewal, solely to reduce claim fees. New claims 26-27 are added herein.

Claims 9, 7, 14 and 23 are amended to correct form. Additional support for the amendments to claims 9 and 14 can be found in the original claims (for example, see claim 1), and throughout the specification. Claim 23 is amended herein to correct form; additional support for amendments to claim 23 can be found throughout the specification, for example on page 31, line 1 to page 44, line 12,

Support for new claims 25-26 and can be found throughout the specification, such as on page 6, line 22 to page 7, line 5 and on page 44, line 10 to page 47, line 29.

Applicants believe no new matter is introduced by these amendments. To the extent that any of the claims are viewed to be narrowed by the amendments made herein, Applicants reserve the right to pursue protection of the broader scope of the subject matter in this or a later-filed application.

After entry of this amendment, **Claims 1-23 and 25-27 are pending in the application.** Consideration of the pending claims is requested.

Restriction Requirement

In response to the restriction requirement, Applicants provisionally elect, with traverse, the claims of Group I, directed to a method of increasing an immune response via administering an immunostimulatory D oligodeoxynucleotide (claims 2-5, 7-21, and 23-24). Applicants submit that it would not be an undue burden on the Examiner to search the subject matter of Group I with Group II.

Claims 1, 6 and 25 have been indicated to be linking claims. The Office action confirms that upon the allowance of a generic claim, the restriction requirement shall be with drawn and any claims depending from or otherwise including all of the limitations of the allowable linking claim will be rejoined.

Claim 24 is canceled herein solely to reduce excess claims fees, without prejudice to renewal.

Election of Species

The Examiner has required an election of species, and has required an election of one of SEQ ID NOs: 1-16 and 22-98. In response, Applicants elect SEQ ID NO: 1 for initial prosecution.

SEQ ID NO: 1 is a D ODN for the treatment of an opportunistic infection (claims 1 and 24), that can be used in methods of treating lentivirus infection, including HIV and SIV (claims 2-5) and can be used to treat an immunocompromised subject, such as subject with AIDS (claim 6). SEQ ID NO: 1 could be used to treat any opportunistic infection (claims 15) including *Leishmania* (claim 16) or other an infection with other opportunistic agents (claim 17). SEQ ID NO: 1 could be administered with any anti-retroviral therapy (claims 18-20). SEQ ID NO: 1 is specifically referred to in claim 20. SEQ ID NO: 1 can be used to stimulate an immune response in the absence of treatment with an antigenic epitope (claim 25).

SEQ ID NO: 1 has the following sequence: 5'XXTGCATCGATGCAGGGGGG 3'. This nucleotide sequence is one exemplary embodiment of an oligodeoxynucleotide with the sequence of the formula shown in claim 7 and 23, wherein N is 6 (claim 8). Applicants note that the sequences according to formula IV are generally set forth in SEQ ID NOs: 22-98, but several positions in these sequence identifiers refer to "purines" or "pyrimidines" or "any nucleotide" in the place of the exact nucleotides listed in SEQ ID NO: 1. The nucleotide sequence of SEQ ID NO: 1 can include phosphodiester bases (claims 9 and 11) or can be phosphodiester bases (claim 10). The nucleotide sequence of SEQ ID NO: 1 can also include phosphthioate bases (claims 12-13). In SEQ ID NO: 1, the nucleotide sequence TCGATCGATGCA, which corresponds to $X_1X_2X_3$ Pu₁ Py₂ CpG Pu₃ Py₄ X₄X₅X₆, is self-complementary (claim 14).

Applicants note that the oligodeoxynucleotide D35 (SEQ ID NO: 177, see page 45 of the specification) is one exemplary oligodeoxynucleotide with a nucleic acid sequence encompassed by SEQ ID NO: 1. Thus, new claims 26-27 read on the elected species (SEQ ID NO: 1).

Thus, claims 1-21, 23 and 25-27 read on SEQ ID NO: 1.

Conclusion

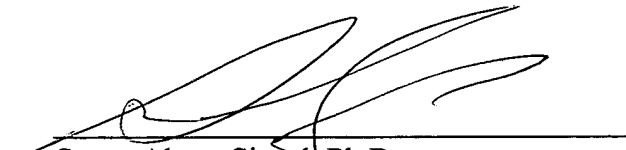
It is respectfully submitted that the amended claims submitted herewith should all be recombined and considered in the current case, and as such they are in a condition for substantive examination. If minor matters remain to be addressed prior to search and substantive examination, or if any additional restriction requirement is asserted, the Examiner is requested to contact the undersigned, in order to arrange a telephonic interview. It is believed that a brief discussion of the merits of the present application may expedite prosecution. This request is being submitted under MPEP §713.01, which indicates that an interview may be arranged in advance by a written request.

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